



April 25, 2019

Via ECF

The Honorable Analisa Torres
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl St.
New York, NY 10007-1312

Re: Cruz et. al. v. U.S. Dep't of Health and Human Serv. et al., No. 18-cv-6371 (AT)

Dear Judge Torres:

I write on behalf of Plaintiffs to update the Court on the status of this matter.

As explained in our prior updates to the Court, the new liver policy, which was approved by a supermajority of the OPTN Board of Directors on December 3, 2018, was scheduled to be implemented on April 30, 2019.

On April 22, 2019, a lawsuit and request for temporary restraining order was filed in the Northern District of Georgia by several plaintiffs, including the University of Kansas Hospital Authority, which previously sought to intervene in this case. The Georgia lawsuit challenges the new liver distribution policy and has been assigned to Judge Amy Totenberg. As a result of the lawsuit and request for a TRO, and at the direction of the Health Resources and Services Administration, implementation of the new liver distribution policy has been deferred from April 30, 2019, to May 14, 2019. Judge Totenberg has scheduled a hearing on the request for TRO for May 7, 2019.

Although this case was first-filed, to avoid burdening two courts on an emergency basis and to protect our clients' rights, we have filed an emergency motion to intervene in the Georgia case. To the extent the Court allows us to intervene and participate in opposing the request for a TRO in the Georgia case, we do not expect the need to bother this Court on an emergency basis. However, to date, the Georgia plaintiffs have opposed our efforts to intervene despite the fact that they previously sought to intervene in this case.

Separately, given these events, we request that our time to update the Court be extended from May 5, 2019 to May 15, 2019. Defendants do not object to this specific request.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Motty Shulman", with a stylized flourish at the end.

Motty Shulman